

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In re C. H. Robinson Worldwide, Inc.,

Overtime Pay Litigation

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) **CASE NO. 07-MD-01849**
) **(JNE)**
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**DEFENDANT C. H. ROBINSON WORLDWIDE, INC.'S
RENEWED MOTION TO DISMISS CLAIMS OF OPT-IN PLAINTIFFS WITH
PREJUDICE FOR WANT OF PROSECUTION**

C. H. Robinson Worldwide, Inc. (“Defendant” or “CHRW”) requests that the Court dismiss, with prejudice, the claims of certain male opt-in Plaintiffs represented by Mansfield Tanick & Cohen, P.A. (“Mansfield Tanick”) and certain female opt-in Plaintiffs represented by Sprenger & Lang, PLLC (“Sprenger & Lang”) for want of prosecution. Defendant states as follows in support of its renewed motion:

1. On or about November 28, 2006, Plaintiffs filed complaints in the United States District Courts for the District of Minnesota and the Northern District of Illinois, alleging in part that Plaintiffs were improperly classified as exempt under the Fair Labor Standards Act (“FLSA”) and worked hours for which they were not properly paid.
2. CHRW denies Plaintiffs’ allegations.
3. There are approximately 525 Plaintiffs in 102 FLSA lawsuits against CHRW. The 102 FLSA lawsuits are identified in Exhibit 1, attached to the Joint Motion of the Parties to Approve the Settlements of Their FLSA Claims and Lawsuits.

4. By April 6, 2007, CHRW reached final settlements with the vast majority of female Plaintiffs who are represented by Sprenger & Lang.

5. By May 9, 2007, CHRW reached final settlements with the vast majority of male Plaintiffs who are represented by the law firm of Mansfield Tanick.

6. During the course of this litigation, both before and after the parties reached the settlements described in paragraphs 4 and 5 above, several male and female Plaintiffs voluntarily dismissed their claims with prejudice.

7. After the parties reached a settlement, fourteen Plaintiffs (twelve females and two males), did not respond to repeated attempts by Plaintiffs' counsel to contact them concerning their desire to accept or reject their settlements.

8. C. H. Robinson subsequently moved to dismiss these fourteen Plaintiffs with prejudice for want of prosecution, and on December 21, 2007, this Court denied Defendant's motion and ordered Plaintiffs' counsel to send a Notice of Required Response ("Notice"), a Settlement Agreement and General Waiver and Release, a W-9 form (collectively, "Settlement Documents"), and a copy of this Court's December 21 Order to the fourteen Plaintiffs identified in the Order at their last known addresses. The Notice instructed these fourteen Plaintiffs to respond to Plaintiffs' counsel (as appropriate) by January 15, 2008, or risk their claims being dismissed with prejudice. The fourteen Plaintiffs identified in the Court's Order included: Carrie Damien; Michelle Dibb; Catherine Dick (f/k/a Catherine Haggerty); Christina Doto; Jill East (f/ka Jill Laba); Celeste Hernandez; Michelle Janovitz; Gina Klein; Jennifer McInnis; Quinzola Neely; Nicole Weiss; Leslie Williams-Ogletree; Andre Smith; and Borris Sazhaev.

9. Pursuant to the Court's Order of December 21, 2007, on December 26, 2007, and on January 3, 2008, Sprenger & Lang and Mansfield Tanick, respectively, sent the fourteen Plaintiffs the Notice and Settlement Documents to their last known addresses. Declaration of Larry P. Schaefer, ¶¶ 3-4, attached as Exhibit A; Declaration of Mara Thompson, ¶¶ 2-14, attached as Exhibit B.

10. The following two male Plaintiffs, however, did not respond by January 15, 2008, to repeated attempts by Mansfield Tanick to contact them about executing their Settlement Documents: Andre J. Smith and Boris A. Sazhaev. Declaration of Larry P. Schaefer, ¶¶ 3-4, Exhibit A.

11. On January 17, 2008, Mansfield Tanick made one final attempt to contact Plaintiffs Andre J. Smith and Boris A. Sazhaev to no avail. Declaration of Larry P. Schaefer, ¶¶ 3-4, Exhibit A.

12. The following six female Plaintiffs also did not respond by January 15, 2008, to repeated attempts by Sprenger & Lang to contact them about executing their Settlement Documents:

Carrie Damien	Michelle Janovitz
Catherine Dick (f/k/a Catherine Haggerty)	Quinzola Neely
Christina Doto	Leslie Williams-Ogletree

Declaration of Mara Thompson, ¶¶ 3, 5-6, 9, 12, and 14, attached as Exhibit B.

13. On January 17, 2008, Sprenger & Lang made one final attempt to contact the six female Plaintiffs identified in paragraph 12 above to no avail. Declaration of Mara Thompson, ¶¶ 3, 5-6, 9, 12, and 14, attached as Exhibit B.

14. This Court's authority to dismiss claims for want of prosecution is well established. "For failure of the plaintiff to prosecute or to comply with these rules or any order of court, a defendant may move for dismissal of an action or of any claim against the defendant...." Fed. R. Civ. P. 41(b).

15. Plaintiffs' counsel has complied with this Court's December 21, 2007 Order, and made every reasonable and repeated attempts to contact the eight (male and female) Plaintiffs identified above and advise them that their claims could be dismissed with prejudice if they did not return the Notice and/or the Settlement Documents by January 15, 2008.

16. Even after January 15, 2008, Plaintiffs' counsel again attempted to contact each of the eight Plaintiffs, however, to date these Plaintiffs have not responded, despite the Court's December 21, 2007 Order.

17. Based on the above, the eight Plaintiffs identified herein have shown absolutely no interest in either prosecuting or resolving their claims, and they have failed to comply with the Court's Order of December 21, 2007.

18. Plaintiffs' counsel do not oppose CHRW's motion to dismiss these eight Plaintiffs' claims with prejudice for want of prosecution.

WHEREFORE, Defendant C. H. Robinson Worldwide, Inc. requests that the Court dismiss with prejudice for want of prosecution the claims of the eight (male and female) opt-in Plaintiffs identified in paragraphs 10 and 12 above.

Respectfully submitted,

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Date: January 18, 2008

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Date: January 18, 2008